§ 795.13 Changes in farming operations.

* * * Any change in farming operations under this section must be bona fide and substantive.

(a) A substantive change includes, for example, a change from a cash lease to a share lease or vice versa, reduction in the size of the farm by sale or lease, increase in the size of the farm by purchase or lease, reduction in cotton allotment by sale or lease, increase in cotton allotment by purchase or lease, and dissolution of an entity such as a corporation or partnership.

(b) Examples of the types of changes that would not be considered as substantive are the following:

Example 1. A corporation is owned equally by four shareholders. The corporation owns land, buildings, and equipment and in the prior year carried out substantial farming operations. Three of the shareholders propose forming a partnership which they would own equally. The partnership would cash lease land and equipment from the corporation with the objective of having the three partners considered as separate persons for purposes of applying the payment limitation under the provisions of § 795.6 of the regulations.

The formation of such a partnership and the leasing of land from a corporation in which they hold a major interest would not constitute a substantive and bona fide change in operations. Therefore, the corporation and the partners would be limited to a single payment limitation.

Example 2. Three individuals each have individual farming operations which, if continued unchanged, would permit them to have a total of three payment limitations.

The three individuals propose forming a corporation which they would own equally. The corporation would then cash lease a portion of the farmland owned and previously operated by the individuals with the objective of having the corporation considered as a separate person for purposes of applying the payment limitation under the provisions of § 795.7 of the regulations. The formation of such a corporation and the leasing of land from the stockholders would not constitute a substantive and bona fide change in operations. Therefore, the corporation and the three individuals would be limited to three payment limitations.

4. Section 795.15 is revised to read as follows:

§ 795.15 Custom farming.

(a) Custom farming is the performance of services on a farm such as land preparation, seeding, cultivating, applying pesticides, and harvesting for hire with remuneration on a unit of work basis. A person performing custom farming shall be considered as being separate from the person for whom the custom farming is performed only if: (1) The compensation for the custom farming service is paid at a unit of work rate customary in the area and is in no way dependent upon the amount of the crop produced, and (2) the person performing the custom farming (and any other entity in which such person has more than a 20-percent interest) has no interest, directly or indirectly, (i) in the crop on the farm by taking any risk in the production of the crop, sharing in the proceeds of the crop, granting or guaranteeing the financing of the crop, (ii) in the allotment on the farm, or (iii) in the farm as landowner, landlord, mortgageholder, trustee, lienholder, guarantor, agent, manager, tenant, sharecropper or any other similar capacity.

(b) A person having more than a 20 percent interest in any legal entity performing custom farming shall be considered as being separate from the person for whom the custom farming is performed only if: (1) The compensation for the custom farming service is paid at a unit of work rate customary in the area and is in no way dependent on the amount of the crop produced, and (2) the person having such interest in the legal entity performing the custom farming has no interest, directly or indirectly, (i) in the crop on the farm by taking any risk in the production of the crop, sharing in the proceeds of the crop, granting or guaranteeing the financing of the crop, (ii) in the allotment on the farm, or (iii) in the farm as landowner, landlord, mortgageholder, trustee, lienholder, guarantor, agent, manager, tenant, sharecropper, or in any other similar capacity.

Signed at Washington, D.C., on October 1, 1971.

CLIFFORD M. HARDIN,
Secretary.

[FR Doc.71-14731 Filed 10-6-71;8:51 am]

Forest Service

[36 CFR Part 221]

TIMBER

Resale From Uncompleted Contracts

Notice is hereby given that pursuant to the authority vested in the Secretary of Agriculture by the Act of June 4, 1897 (30 Stat. 35, as amended; 16 U.S.C. 476, 551), it is proposed to amend Part 221 of Title 36, Code of Federal Regulations, by adding § 221.8a to read as follows:

§ 221.8a Resale of timber from uncompleted contracts.

(a) Except as otherwise provided in this section, no bid will be considered in the resale of timber remaining from any uncompleted timber sale contract from any person, or from an affiliate of such person, who has not completed the contract (1) because of termination for purchaser's breach or (2) through failure to cut designated timber on portions of the sale area by the termination date.

(b) The no bid restriction in paragraph (a) of this section shall only apply when 50 percent or more of the timber remaining from the uncompleted contract is included in the resale and the resale is advertised within 3 years of the date the uncompleted contract is terminated.

(c) Where a third party agreement has been approved in accordance with § 211.16(b) of this chapter, the original purchaser shall not be affected by this section unless such purchaser is an affiliate of the third party.

(d) As used in this section, "person" includes any individual, corporation, company, association, firm, partnership, society, joint stock company, or other business entity or the successor in interest of any of the foregoing business entities. A person is an "affiliate" when either directly or indirectly (1) a person controls or has the power to control the other, or (2) a third person or persons controls or has the power to control both.

(30 Stat. 34, 35, as amended; 16 U.S.C. 551, 476)

The purpose of the new part is to provide that a bid from a person (individual, corporation, partnership, or affiliate thereof) who has failed to complete a timber sale contract will not be considered in the subsequent resale of the timber included in the contract.

All persons who wish to submit written data, views, or objections pertaining to the proposed amendment may do so by submitting them in duplicate to the Department of Agriculture, Forest Service, Division of Timber Management, South Agriculture Building, Room 3211, Washington, D.C., within 30 days of the date of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be available for public inspection in the Division of Timber Management during regular business hours. (7 CFR 1.27(b))

CLIFFORD M. HARDIN,
Secretary of Agriculture.

OCTOBER 1, 1971.

[FR Doc.71-14705 Filed 10-6-71;8:48 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 1, 123]

[Docket No. 10654; Reference Notice 70-41]

AIRCRAFT OPERATIONS CONDUCTED BY "COMMERCIAL OPERATORS" AND EDUCATIONAL INSTITUTIONS AND OTHER GROUPS

Withdrawal of Notice of Proposed Rule Making

The purpose of this notice is to withdraw NPRM 70-41 (35 F.R. 16641) which would amend the definition of "commercial operator" in Part 1 of the Federal Aviation Regulations.

Over 600 comments were received from interested persons in response to the notice. The bulk of the comments did not favor the amendments as proposed for several reasons. As a result, the FAA has reevaluated the proposals and has decided by this action to withdraw NPRM 70-41.

A substitute rulemaking action which would amend Part 91 of the Federal Aviation Regulations by adding a new Subpart D containing general operating

rules and an inspection program for large and turbine powered multiengine airplanes was recently issued by the FAA as NPRM 71-32 and published in the FEDERAL REGISTER on October 7, 1971 (36 F.R. 19507). Interested persons are invited to participate in the making of that rulemaking action by submitting their comments to the substitute proposals.

The withdrawal herein of NPRM 70-41 is made under the authority of sections 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 1, 1971.

JAMES F. RUDOLF,
Director,
Flight Standards Service.

[FR Doc.71-14679 Filed 10-6-71;8:46 am]

[14 CFR Part 39]

[Docket No. 71-CE-24-AD]

CESSNA MODEL 210D AIRPLANES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an Airworthiness Directive applicable to certain Cessna Model 210D airplanes. There have been an increasing number of reports of main gear actuator malfunctions on these model airplanes due to failure of ED 11935 L/R spindles. This situation can cause a gear-up landing with resultant damage to the airframe structure and exposure of the occupants to an unnecessary risk. This condition occurs in Cessna Model 210D airplanes, Serials Nos. 21058221 through 21058460.

In order to prevent this condition, an AD is being proposed requiring within the next 150 hours' time in service after its effective date, installation of Cessna Kits 1209005-1 R/L in accordance with Cessna Service Letter No. 69-17, dated September 16, 1969.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Director, Central Region, Attention: Regional Counsel, Airworthiness Rules Docket, 601 East 12th Street, Kansas City, MO 64106. All communications received within 30 days after publication of the notice in the FEDERAL REGISTER will be considered before action is taken upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Airworthiness Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new AD.

CESSNA. Applies to Model 210D (Serials Nos. 21058221 through 21058460) Airplanes.

To decrease the possibility of main gear extention failure:

Within the next 150 hours' time in service after the effective date of this AD, install Cessna Kits 1209005-1 R/L in accordance with Cessna Service Letter 69-17 dated September 16, 1969, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

Issued in Kansas City, Mo., on September 29, 1971.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.71-14687 Filed 10-6-71;8:47 am]

[14 CFR Parts 43, 91, 135]

[Docket No. 11437; Notice 71-32]

LARGE AND TURBINE-POWERED MULTIENGINE AIRPLANES

Proposed General Operating Rules

The Federal Aviation Administration is considering amending Part 91 of the Federal Aviation Regulations by adding a new Subpart D containing general operating rules and an inspection program for large and turbine-powered multiengine airplanes. As proposed, the inspection program would also apply to turbine-powered multiengine airplanes operated by the holder of an ATCO certificate issued under Part 135.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, DC 20590. All communications received on or before January 5, 1972, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

On October 27, 1970, the FAA published a notice of proposed rule making in the FEDERAL REGISTER (NPRM 70-41; 35 F.R. 16641), to amend the definition of "Commercial Operator" in Part 1 of the Federal Aviation Regulations to include a person who engages in the carriage by aircraft of (1) goods for his own account for later resale, or (2) passengers to a place for the purpose of selling them land, goods, or property of any kind, including hotel accommodations. Under that proposal, any person conducting such operations would be required to hold a Commercial Operator Certificate under Part 121 or 135, as appropriate.

By an amendment to the Air Travel Club rules of Part 123 of the Federal Aviation Regulations, it was also proposed in the same NPRM to extend the applicability of that Part to large aircraft operations conducted by educational institutions and other similar groups having a common purpose or objective, such as sportsman groups.

More than 600 comments were received in response to the notice. The bulk of the comments opposing the amendments were received from corporate or business aircraft operators. In substance they opposed the rule because it imposed an unnecessary administrative burden upon them, or would stop them from carrying goods or persons on their aircraft in the furtherance of their business. Some commentators raised the spectre that the rule would require them to hold a commercial operator certificate to demonstrate an aircraft to prospective customers, or to carry prospective customers without charge aboard a business or corporate aircraft for sales purposes. Most of the remaining commentators opposed the rule because it would require them to obtain a Part 121 certificate to carry goods for their own account for the purpose of sale, or to obtain a Part 123 certificate to carry student groups or sports groups aboard the aircraft even though no charge is made for the carriage of such groups.

Following the fatal accident last fall of the charter flight carrying a college football team, the Secretary of Transportation ordered an in-depth investigation of charter operations utilizing large airplanes. The task force which conducted that investigation under the direction of the Assistant Secretary for Safety and Consumer Affairs, Office of the Secretary of Transportation, made several recommendations which were adopted by the Secretary and submitted to the Administrator of FAA subsequent to the issuance of NPRM 70-41. Two of the recommendations which the task force urged the Administrator to implement under his rule making authority read in pertinent part as follows:

"Promulgate a new Part of the Federal Aviation Regulations governing the operation of all (a) large airplanes, (b) pressurized airplanes, and (c) turbine-powered airplanes, engaged in private carriage. This regulation should provide that those airplanes be operated and maintained in the condition for safe operation appropriate for transport category airplanes. The regulation should include requirements for crew proficiency, operations, and continued airworthiness consistent with the terms of original airworthiness certification of transport airplanes. It should be written so as to provide a level of safety comparable to FAR 121, but without the detailed administrative, financial and organizational requirements for the issuance of a commercial operator certificate prescribed in that Part. This new Part should be written in such a way that it provides the flexibility necessary for the operation and maintenance of the individual airplane.

Upon implementing the requirement that all large airplanes, pressurized airplanes, and turbine-powered airplanes be raised to an acceptable level of safety, commercial operator certification should no longer be required. The regulations should then require

that only scheduled and supplemental air carriers engaged in common carriage will be governed by FAR 121 and meet the highest possible degree of safety as required by section 601(b) of the Federal Aviation Act of 1958. Operators of large or complex airplanes engaged in private carriage should no longer be burdened with ecomonic requirements, but could continue to meet under the new Part an acceptable level of safety. FAA field inspectors would no longer be required to make an economic determination of what constitutes operation "for compensation or hire." As air travel club airplanes would also be required by the new regulation to meet the acceptable level of safety, there would no longer be a requirement for FAR 123.

It is noted that some of the commentators (including the National Transportation Safety Board and the National Business Aircraft Association) who opposed NPRM 70-41 also suggested that if any additional safety standards were necessary for large airplanes they should be adopted in the form of operating rules only, thereby eliminating the burden of obtaining and maintaining a commercial operator certificate for operations involving corporate or private carriage operations.

The recommendations to prescribe the necessary safety standards as operating rules without requiring a commercial operator or other operating certificate have considerable merit. As a matter of fact, the FAA initiated a rule making program to upgrade, where necessary, the standards of Part 91 before the recommendations were received. Some of these rules have been adopted. Other proposals such as NPRM 71-8 which would establish qualification requirements for all copilots and an annual proficiency check for pilots in command of aircraft that require more than one pilot are under consideration by the FAA.

In order to proceed further with the program for the upgrading of Part 91, the FAA has decided to withdraw NPRM 70-41 and initiate herein a new notice of proposed rule making that would prescribe general operating rules for large airplanes and turbine-powered multiengine airplanes. The decision to proceed with the upgrading of Part 91 for large and turbine-powered multiengine airplanes is an important threshold step in the FAA policy to remove, to the extent possible, those differences in the safety standards that are primarily economic in nature and may result in unnecessary restrictions or limitations upon the operator of a large aircraft.

As proposed herein the General Operating Rules of Part 91 would be amended by adding a new Subpart D prescribing operating rules for all large or turbine-powered multiengine airplanes. In addition, Subpart D would also contain airplane inspection requirements, but the standards for the inspections as proposed herein would be added to the maintenance rules of Part 43. All of the rules in the proposed subpart are in the form of operating rules thereby eliminating the administrative, financial, and organizational requirements applicable to persons certificated as a commercial operator under Part 121. They would not apply to aircraft that are required to be operated under the provisions of Parts 121 through 137. Persons conducting operations subject to those parts would be required to hold an appropriate operating certificate and conduct their operations in accordance with the rules of those parts, except that the inspection program prescribed in proposed § 91.217 would also apply to turbine-powered multiengine airplanes operated under Part 135.

As proposed herein the new Subpart D to Part 91 would contain the following significant provisions.

1. *Applicability.* Section 91.181, the initial section of the subpart, describes its applicability. As proposed, it applies to U.S. registered large or turbine-powered multiengine airplanes. To make these provisions applicable outside the United States § 91.1(b)(3) would be amended by adding Subpart D to the provisions of Part 91 that apply outside the United States.

Corporate aircraft operations, i.e., operations involving the carriage of persons or property within the scope and in the furtherance of a business, other than transportation, would be permitted to be conducted under this subpart. As more fully explained herein these operations include carriage of company employees, officials and guests; carriage of materials by a manufacturer for the purpose of being processed at its factory, or for delivery to the purchaser; demonstration of aircraft by an aircraft manufacturer or sales agency to a prospective purchaser; and the carriage on a corporate aircraft of persons for the purpose of selling to them land, goods, or property (including franchises and distributorships).

Other operations that would be subject to the new subpart as proposed herein would include the carriage of sports groups, athletic groups and other groups of persons having a common purpose or objective and for which no compensation is received, or for which no assessment, dues, membership fee, or other similar remittance is collected. It would not include air travel clubs which are subject to the certification and operation rules of Part 123.

The format of describing in proposed § 91.181 the types of operations that may be conducted under that subpart is not new. It has been used successfully to describe a framework for the types of operations permitted under Part 135 and for the privileges that may be exercised by the holder of a private pilot certificate under Part 61. It is hoped that it will be equally successful as an aid to persons who wish to conduct operations with large or turbine-powered multiengine airplanes.

Several years ago Advisory Circulars 120-12 and 120-14 were issued explaining the applicability of Parts 121 and 135 to common and private carriage. The applicability of those parts to certain types of operations conducted in the furtherance of a business was later explained in the preamble to NPRM 70-41. Recently, an educational flyer entitled "Look Before You Lease" was issued to explain the responsibilities that may be incurred by unsuspecting persons under a lease arrangement. In addition, under a separate NPRM the FAA would require certain truth in leasing provisions regarding the aircraft and its operation to be included in each lease agreement for a large or turbine-powered multiengine airplane. In order to make this information available to all interested persons the NPRM would also require the lease to be filed with the FAA.

In order to avoid any misunderstanding as to whether the rules proposed in Subpart D, or the commercial operator rules of Part 121 or 135 would apply to a particular operation, by way of prologue it may be helpful to explain some of the more important policies of the FAA regarding operations for which a Commercial Operator Certificate is needed.

As defined in Part 1, a "commercial operator" means "a person who, for compensation or hire, engages in the carriage by aircraft in air commerce of persons or property, other than as an air carrier or foreign air carrier or under the authority of Part 375 of [the regulations of the Civil Aeronautics Board]." Although there are numerous analogous legal precedents in other fields of transportation for the proper interpretation of the phrase "compensation or hire," there is no facile definition of that phrase which can be used in every fact situation. It is important to note, however, that the element of profit is not necessary to constitute compensation and a person who is remunerated only for his operating expenses performs his services for compensation. The definition further provides that where it is "doubtful that an operation is for compensation or hire," the test applied is "whether the carriage by air is merely incidental to the person's other business or is, in itself, a major enterprise for profit." This test, sometimes referred to as the primary business test, permits a person to transport his own goods in the furtherance of his primary business, except the transportation business, without holding an operating certificate under Part 121 or 135. The corporate aircraft which is used for the carriage of the company's goods to and from its plants during the processing stage is a typical example of the transportation authorized under that test. Some operators, however, have attempted to use this test as a means of circumventing the application of the commercial opesator rules of Part 121 to their operations. This is particularly true in the case of the so-called meat or lobster haulers who allege that their primary business is the processing and sale of meat or lobsters, when actually it is the carriage of such products by airplane, for their own account, to a place where it is sold for a substantial profit. In some instances, even the ownership of the products by the operator of the airplane was found to be fictional since the operator was paid a fixed rate per pound for the cargo by the real owner.

The decision to apply Subpart D to the carriage of goods as an incident to a

primary business is not intended to change the applicability of Part 121 to those operations which involve primarily the transportation of cargo by aircraft from one point to another solely for the purpose of sale. Such transportation is considered a major enterprise in itself, and may not be conducted with a large aircraft by a person who does not hold an operating certificate issued under Part 121. The FAA wishes to make it very clear that it does not condone the use of any subterfuge designed to give the appearance of ownership of the goods by an aircraft operator and thereby avoid compliance with the operating certificate requirements of that part. We will continue to conduct a close surveillance program for the detection of such operators and take prompt and vigorous corrective action to deter further operations of that type.

Recently, in order to augment or more fully utilize their fleets, many corporate aircraft operators entered into agreements for the loan, exchange, or sharing of their aircraft. Basically, the agreements consist of either of the following arrangements:

(1) *Time sharing.* Under this arrangement one corporation agrees to lease its aircraft with crew, for a fixed charge per mile, to another corporation which may, or may not, own an aircraft. In some instances these arrangements are made between several corporations with an independent organization acting as the broker for the arrangements.

(2) *Interchange.* Under this arrangement one corporation agrees to lease its aircraft with crew to another corporation in exchange for equal time when needed on the lessee's aircraft. As distinguished from the time sharing arrangement, each of the corporations to the interchange agreement owns an aircraft and there is no monetary compensation paid for the aircraft or crew under the agreement.

Initially, it is to be noted that each of the arrangements described in paragraphs (1) and (2), sometimes referred to as a wet lease, provides for the lease of an aircraft with a flight crew employed by the lessor. Where an aircraft is leased with crew the operational control and ultimate safety responsibility for the aircraft normally remains in the hands of the lessor whose employee is pilot in command of the aircraft. Therefore, it is the policy of the FAA in such wet lease arrangements to consider the lessor of the aircraft as the operator of the aircraft within the meaning of the regulations. Conversely, in the case of a dry lease which merely provides for the lease of aircraft with no retention of operational control in the lessor, it is the policy of the FAA to consider the lessee of the aircraft as the operator.

In the time sharing arrangement described in (1), the lessor corporation receives "compensation" and is the "operator" of the aircraft within the meaning of Part 121 or 135. Moreover, the lessor corporation may not operate an aircraft under such arrangements without a commercial operator certificate on the alleged theory that such operation was incidental to its primary corporate business. Accordingly, to correct any misunderstanding of the FAA policy in regard to such arrangements a General Notice (GENOT) was issued to all FAA Regional Offices stating that the lessor corporation under such circumstances is the operator of the aircraft and required to hold a commercial operator certificate under Part 121 or 135, as appropriate. As a corollary policy, the Genot further stated that when such operations are conducted through a management or brokerage organization providing such services as scheduling, upkeep, maintenance, hangaring, and training of flight crews, the management or brokerage organization would be considered to be the operator of the aircraft and required to hold a commercial operator certificate under Part 121 or 135, as appropriate.

In the aircraft interchange agreements described in (2), the lessor corporation is the operator of the aircraft and receives "compensation" for the use of its aircraft by the other corporation, albeit an aircraft with crew on an equal time basis from the other corporation. However, it is the policy of the FAA to permit each of the corporations involved in an interchange or reciprocal agreement described in (2) to operate the aircraft involved without holding a commercial operator certificate.

The FAA has also held that a subsidiary corporation may not lease an aircraft with crew to its parent corporation, even though the actual operating expenses of the flight are the only charges made. With the growth of the conglomerates and the use of various legal artifices to provide transportation for compensation this policy is becoming increasingly difficult to apply. Safetywise, neither the relationship of the corporations nor the type of compensation received for the services rendered should be relevant or controlling for such operations. Therefore, comments are requested as to whether the policies of the FAA in regard to operations conducted under arrangements (1) and (2) should be continued or modified if the proposed subpart D is adopted.

In response to the specter raised by some persons, the FAA has, by GENOT, made it clear that the manufacturer or an aircraft sales company does not need a commercial operator certificate to demonstrate aircraft in flight to a prospective purchaser. Moreover, in connection with such flights the prospective purchased may be charged a fee to defray the normal operating expenses of the flight such as fuel, oil, hangar or landing fees, and salary of the flight crew. Such demonstrations are considered to be within the scope of, and incidental to, the primary business of the aircraft manufacturer or sales company. In accordance with the foregoing policy, the proposed Subpart D would apply to those demonstrations.

A growing trend in the corporate aircraft type of operation is the use of contract pilots. As a result, some persons are in the business of recruiting, training and furnishing pilots on a contract basis to corporations, associations and other persons who own or lease an aircraft and wish to perform their own transportation as an incident to their business. Since the owner or lessee of the aircraft usually retains the operational control, direction and responsibility for the aircraft, it is the policy of the FAA in such cases not to require him to hold a commercial operator certificate, unless persons or property are carried on the aircraft for compensation or hire. Whenever the aircraft and flight crew are furnished by separate and unrelated persons, it is also the policy of the FAA to consider the lessee of the aircraft as the operator so long as he retains control, direction and responsibility of the aircraft. This policy, however, is not dispositive of all situations in which the pilot and aircraft are obtained from separate sources. Whenever the instrumentalities of transportation, i.e., the aircraft and crew, are furnished by separate persons acting in concert, the situation is not the same. In such cases the question to be considered is whether the net effect of the actual operational arrangements of the parties involved in the mosaic of that situation places responsibility for the operation of the aircraft in the lessor of the aircraft, the person furnishing the flight crew, or both. In a recent case it was found that the person furnishing the flight crew exercised complete control over all phases of the operation of the aircraft requiring any aviation expertise, and left to the lessee of the aircraft only those decisions normally made as to what and who was transported. Under these circumstances, the NTSB concluded the person furnishing the flight crew was the operator of the aircraft and was required to hold a commercial operator certificate. By entering into an arrangement whereby the aircraft lessor was a separate company, he was not permitted to shift his responsibility as operator to the lessee who had neither the intention nor the experience to assume such responsibilities.

The foregoing articulation of the FAA policies regarding the need for a commercial operator certificate should be of assistance in the preparation of comments in response to this NPRM. If any person has a question as to whether a commercial operator certificate is needed for any other kind of operation that he is presently conducting, or proposes to conduct, he should direct his inquiry to the nearest District office of the FAA without delay. This will avoid the unintentional assumption of responsibility or violation of the Federal Aviation Regulations by the persons concerned with the operation.

2. *Flying equipment and operating information.* The initial safety requirement for the new Subpart D would be prescribed in proposed § 91.183. Section 91.5 now requires each pilot in command, before beginning a flight, to familiarize himself with all available information concerning the flight. The proposed § 91.183 would specify the kinds of operating information and flying equipment that should be carried on the airplane

including an appropriate cockpit checklist which must be used by the pilot.

3. *Familiarity with operating limitations and emergency equipment.* Under proposed § 91.185(a) each pilot in command would be required to familiarize himself with the contents of the approved airplane flight manual for the airplane (if one is required), and with any placards, listings, or instrument markings describing the operating limitations of the airplane. This rule would supplement the requirements of § 91.31 which now requires compliance with such limitations by each person operating an airplane. Under paragraph (b) each required member of the crew would be required to be familiar with the emergency equipment installed on the particular airplane and the procedures to be followed in an emergency situation.

4. *Equipment requirements for night or over-the-top flights under VFR.* Proposed § 91.187 would require the IFR instruments and equipment specified in § 91.33(d) for night or over-the-top flights under VFR. These requirements, which are applicable to aircraft operated under Part 121, 123, or 135, should also be made applicable to all large or turbine powered multiengine airplanes.

5. *Survival and radio equipment for extended over-water operations.* As defined in Part 1, an extended over-water operation means "an operation over water at a horizontal distance of more than 50 nautical miles from the nearest shore line." Although § 91.33(b)(11) of the general flight rules requires aircraft operated for hire over water to be equipped with approved flotation gear, there is no additional equipment requirement for extended over-water operations. In the case of large or turbine-powered multi-engine airplanes that can be operated hundreds of miles over the ocean, additional survival equipment for the occupants is required in the event a ditching becomes necessary. Therefore, proposed § 91.189 would require such airplane to be equipped with a life preserver for each occupant and enough life rafts to carry all the occupants aboard the airplane. As proposed, each life raft would also be required to be equipped with certain items needed for survival or search and rescue. An emergency radio signaling device is also required on the airplane.

In addition to the foregoing survival equipment, proposed § 91.191 would require the airplane to be equipped with radio equipment adequate to communicate with appropriate ground stations and to navigate over the routes to be flown.

6. *Emergency equipment.* In the event of fire, smoke, and personal injuries which may be caused by an accident, or in-flight emergency, proposed § 91.193 would require certain equipment such as first aid kits, hand fire extinguishers, crash ax, and in certain cases, megaphones to be on board each airplane and readily available for use. As distinguished from the equipment required by proposed §§ 91.189 and 91.191 for extended over-water operations, emergency equipment proposed in § 91.193 would be required for all operations.

7. *Flight altitude rules.* The minimum altitudes prescribed in the present § 91.79 are no longer appropriate for airplanes subject to the proposed Subpart D. As proposed in § 91.195, with certain exceptions, a minimum altitude of 1000' is prescribed for VFR day operations, and a minimum altitude of 1000' above the highest obstacle within 5 miles of the center of the course to be flown is prescribed for VFR night operations. These altitudes do not apply during takeoff or landing, when operating under an appropriate ATC clearance for special VFR weather minimums in accordance with § 91.107, or when operating with a waiver issued under § 91.63.

8. *Passenger information.* Large or turbine-powered multiengine airplanes used for the carriage of passengers should be equipped with no smoking and fasten safety belt signs. However, if the airplane is not equipped with such signs, § 91.197, as proposed herein, would require the passengers to be briefed by a number of the crew to insure that they are familiar with information regarding the use of safety belts and the times during which smoking is not permitted on board the airplane.

9. *Passenger briefing.* In addition to the briefing requirements proposed in § 91.197, proposed § 91.199 would require the passengers to be briefed by a member of the crew to insure that they are familiar with the location and use of the emergency exits and equipment. Although printed material may be used to assist in the briefing, an oral briefing is required. The oral briefing proposed in §§ 91.197 and 91.199 may be conducted by a flight attendant, if one is used, or by one of the members of the flight crew. However, it is the responsibility of the pilot in command to insure that the briefing is conducted.

10. *Carry-on-baggage.* The amount and size of carry-on-baggage by the passengers on a large or turbine-powered multiengine airplane, should be regulated to avoid creating a hazard or an obstacle in the event of an emergency. The proposed § 91.201 would require all carry-on-baggage on airplanes having a seating capacity of more than 19 passengers to be stowed in a location aboard the airplane that does not restrict the access to, or use of, a required emergency exit.

11. *Carriage of cargo in passenger compartments.* In addition to the proposed restrictions upon the stowage of carry-on-baggage, proposed § 91.203 would require all cargo carried in a passenger compartment to be stored in bins, or cargo racks, unless it is stowed and secured as provided in that section. Such requirements are necessary to provide for the safety of the occupants in the event of turbulence and to insure, to the extent possible, the crashworthiness of the airplane.

12. *Operating limitations: Takeoff limitations.* Present § 91.37 prescribes operating limitations for transport category airplanes. However, it does not provide takeoff accelerate-stop distance limitations for transport category airplanes other than for turbine engine powered airplanes. The proposed § 91.205 would prescribe takeoff accelerate-stop distance limitations for reciprocating engine powered transport category airplanes similar to those prescribed in § 121.177 (a)(1) for air carriers and commercial operators.

13. *VFR fuel requirements.* Present § 91.23 prescribes the fuel requirements for the operation of civil aircraft under IFR conditions only. The minimum fuel reserve for VFR flights should no longer be left to the discretion of the individual operator. In addition to the fuel needed to fly to the first point of intended landing, the proposed § 91.207 would require a minimum fuel reserve of 45 minutes for VFR operations, day or night.

14. *Operating in icing conditions.* Part 91 does not prescribe equipment for operations conducted in icing conditions, or restrict the operations of an aircraft in such conditions if it is not equipped with de-icing equipment. The proposed § 91.209 would prescribe equipment and operating rules for such operations that would be similar to those contained in § 135.85.

15. *Flight crewmembers and recent experience.* Part 63 now requires a person acting as a flight engineer on a civil aircraft to hold an appropriate airman certificate. However, there is no rule that specifies when a flight engineer is required, except when specified under Part 121 or 135, or the aircraft type certificate. The proposed § 91.213 would require a flight engineer on each airplane having a maximum certificated takeoff weight of more than 80,000 pounds, if it was type certificated before January 2, 1964. After January 1, 1964, a flight engineer would be required on an airplane when required by its type certification. This requirement for large and turbine powered multiengine airplanes would be comparable to the requirements for large airplanes prescribed in § 121.387.

In addition to the foregoing requirement as to the types of airplanes for which a flight engineer is required, proposed § 91.211 would require a minimum of 50 hours of experience within the preceding 6 months in order to act in the capacity of a flight engineer. If the flight engineer does not have that recent experience, he would be required to pass an appropriate check before acting in that capacity.

16. *Second in command.* The proposed § 91.213 would specify the aircraft for which a second in command pilot is required. This requirement would require a pilot designated as the second in command on any large airplane, or each turbine powered multiengine airplane type certificated for two pilots. It is to be noted that NPRM 71-8A (36 F.R. 5247) would amend Part 61 to include certain recent experience and other requirements for a second in command. If that NPRM is adopted it would apply to those pilots required to be designated as second in command of airplanes type certificated for more than one pilot.

17. *Flight attendants.* Since airplanes subject to the proposed subpart may be used under some circumstances for the carriage of sports groups, athletic groups, and other groups of persons having a common purpose or objective, § 91.215 would require flight attendants to assist the flight crew in maintaining an adequate level of passenger safety aboard the airplane under normal and emergency conditions. Paragraph (b) of that section would require each required flight attendant to be familiar with the necessary functions to be performed and be capable of using the emergency equipment installed on the particular airplane. The number of flight attendants required is based upon the number of passengers on board the airplane for the particular flight.

18. *Inspection programs.* The final item for the proposed Subpart D contains a proposal in § 91.217 for an inspection program that will insure the airworthiness of each airplane subject to that subpart. It is to be noted that this proposal does not cover rotorcraft, small pressurized airplanes, or turbine-powered single-engine airplanes. Adequate inspections for rotorcraft are prescribed in §§ 91.163(c), 91.169(a)(1), 43.15(b), and 43.16 and no additional change appears necessary for the inspections of those aircraft. However, since small pressurized or turbine engine powered airplanes have structures and systems that are equal in complexity to large or turbine-powered multiengine airplanes, an inspection program similar to that proposed in this NPRM will be proposed for those airplanes in a separate notice of proposed rule making. Therefore, comments regarding the inspection program proposed for this notice should be limited to large airplanes and turbine-powered multiengine airplanes.

Air carriers, commercial operators, air travel clubs, or air taxi operators using large airplanes are required under Parts 121 and 123 to utilize approved inspection programs that are of such scope, frequency and detail that they will assure the airworthiness of their airplanes. Under the provisions of Part 135 an Air Taxi Operator or a Commercial Operator may also utilize an inspection program, for small airplanes as an alternative to a 100-hour and annual, or progressive inspection. The approved techniques, methods and practices for the performance of such inspections are derived in the most part from the recommendations or instructions of the manufacturer of the airplane concerned, based upon an analysis of the design features of the airplane, its structure and its major components. There are no other rules that authorize the use of an inspection program by other operators of large or turbine-powered multiengine airplanes.

In recent years there has been a significant increase in the use of large airplanes and turbine-powered multiengine airplanes by corporate and other operators within the general aviation group. These operators are equally dependent upon the manufacturer's recommendations and instructions for the establishment of a proper inspection program for such airplanes. In many instances they have voluntarily established inspection programs that are equal in scope, frequency and detail to those established by air carriers and other operators under Part 121, 123, or 135. Yet, they cannot derive the full benefits of such inspection programs because of the time restrictions imposed upon them by the annual or 100-hour inspection required by § 91.169. Such restrictions are also imposed if they elect to use a progressive inspection because § 91.171 provides in part that—"the frequency and detail of the progressive inspection shall provide for the complete inspection of the aircraft within 12 calendar months and be consistent with the manufacturer's recommendations, field service experience, and the kind of operation in which the aircraft is engaged."

In order to provide for a more suitable program of inspections that will meet the needs of the particular operator, it is proposed under § 91.217 that the owner or operator of a large or turbine-powered multiengine airplane be required to select one of the following current programs of inspection for each make and model airplane that he operates:

(1) A continuous airworthiness inspection program that is a part of a continuous airworthiness maintenance program used by a person holding an air carrier or commercial operator certificate under Part 121.

(2) An approved aircraft inspection program used by a person holding an ATCO certificate under Part 135.

(3) An aircraft inspection program approved for a person holding an Air Travel Club certificate under Part 123.

(4) An inspection program recommended by the manufacturer.

(5) An inspection program approved by the Administrator under the provisions of this proposal.

It is to be noted that if this proposal is adopted for airplanes operated under subpart D, §§ 91.169 and 135.60 would be amended as shown herein to make it clear that the annual, 100-hour, or progressive inspections as set forth in Appendix D of Part 43 could no longer be used for large airplanes or turbine powered multiengine airplanes. However, any or all of the elements of those inspections may be embodied within an inspection program approved by the Administrator under the provisions of this proposal.

Proposed § 91.217(c) would also require the owner or operator to give notice of the inspection program selected. The notice must be in writing and include the make, model, serial number, and registration number of the airplane, and the person who will be responsible for the scheduling of the inspection. The notice containing that information must be submitted to the local Flight Standards District Office having jurisdiction over the area in which the airplane is based so that an FAA inspector may be able to conduct any necessary surveillance of the airplane and the persons performing the selected inspections.

Since the inspections proposed herein are considered to be maintenance, they may only be performed by persons authorized such privileges under Part 65 or 145 of the Federal Aviation Regulations.

The final proposal is an amendment to § 43.9(b) that would require the person performing the inspections required under Subpart D to certify that the inspections were performed in accordance with all the appropriate instructions and procedures specified in proposed § 43.13(d) for the inspection program selected by the owner or operator, and that he has given the owner or operator a signed and dated list of the defects, if any, discovered by the inspection.

For the convenience of the operators of airplanes that are subject to rules in the proposed Subpart D, other provisions of Part 91 that pertain solely to large airplanes or turbine-powered multiengine airplanes would be incorporated by reference within the framework of the subpart. This would include, for example, the equipment requirements of § 91.33 (c)(3) and (d)(3), the T category weight limitations of § 91.37, the emergency exit requirements of § 91.47, the aural speed warning device requirement of § 91.49, and the minimum altitude requirements of § 91.87(d).

In consideration of the foregoing, it is proposed to adopt a new Subpart D to Part 91 and make conforming amendments to Parts 43, 91, and 135 of the Federal Aviation Regulations to read as set forth in this notice.

This rule making action is proposed under the authority of sections 313(a), 601, 602, 603, 604, and 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1422, 1423, 1424, and 1425), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 1, 1971.

JAMES F. RUDOLF,
Director,
Flight Standards Service.

PART 91—GENERAL OPERATING AND FLIGHT RULES

Subpart D—Large and Turbine-Powered Multiengine Airplanes

Sec.

Subpart D—Large or Turbine-Powered Multiengine Airplanes

§ 91.181 Applicability.

(a) This subpart prescribes rules (in addition to those prescribed in other subparts of this part) governing the operation of large or turbine-powered multiengine civil airplanes of U.S. registry. The rules in this subpart do not apply to those airplanes that are required to be operated under Parts 121 through 137 of this chapter.

(b) Operations governed by the rules in this subpart include—

(1) Ferry or training flights;

(2) Aerial work operations such as aerial photography or survey, or pipeline patrol;

(3) Flights for the demonstration of an airplane to prospective customers when no charge is made in excess of the normal operating expenses for the flights, including fuel, oil, hangar and landing fees, and salary of the flight crew;

(4) Flights conducted by the operator of an airplane for his personal transportation or the transportation of his guests when no charge, assessment, or fee is made for the transportation;

(5) The carriage of company officials, employees and guests of the company on an airplane operated by that company, when the carriage is within the scope of, and incidental to, the business of the company (other than transportation) and no charge, assessment, or fee is made for the carriage;

(6) The carriage of property (other than mail) on an airplane operated by a person in the furtherance of a business or employment when the carriage is within the scope of, and incidental to, that business or employment (other than transportation) and no charge, assessment, or fee is made for the carriage; and

(7) The carriage on an airplane of athletic teams, sports groups, choral groups, or similar groups having a common purpose or objective when there is no charge, assessment, or fee of any kind made by any person for such transportation.

§ 91.183 Flying equipment and operating information.

(a) The pilot in command of an airplane shall insure that the following flying equipment and aeronautical charts and data, in current and appropriate form, are accessible for each flight at the pilot station of the airplane:

(1) A flashlight that is in good working order.

(2) A cockpit checklist containing the procedures required by paragraph (b) of this section.

(3) Pertinent aeronautical charts.

(4) For IFR, VFR, over-the-top, or night operations, each pertinent navigational en route, terminal area, and approach and letdown chart.

(5) In the case of multiengine airplanes, one-engine-inoperative climb performance data.

(b) Each cockpit checklist must contain the following procedures and shall be used by the flight crewmembers when operating the airplane:

(1) Before starting engines.

(2) Before takeoff.

(3) Cruise.

(4) Before landing.

(5) After landing.

(6) Stopping engines.

(7) Emergencies.

(c) Each emergency cockpit checklist procedure required by paragraph (b)(7) of this section must contain the following procedures, as appropriate:

(1) Emergency operation of fuel, hydraulic, electrical, and mechanical systems.

(2) Emergency operation of instruments and controls.

(3) Engine inoperative procedures.

(4) Any other procedures necessary for safety.

§ 91.185 Familiarity with operating limitations and emergency equipment.

(a) Each pilot in command shall, before beginning a flight, familiarize himself with the airplane flight manual for the airplane, if one is required, and with any placards, listings, instrument markings, or any combination thereof, containing each operating limitation prescribed for that airplane by the Administrator, including those specified in § 91.31(b).

(b) Each required member of the crew shall, before beginning a flight, familiarize himself with the emergency equipment installed on the airplane to which he is assigned and with the procedures to be followed for the use of that equipment in an emergency situation.

§ 91.187 Equipment requirements: Over-the-top, or night VFR operations.

No person may operate an airplane over-the-top, or at night under VFR unless that airplane is equipped with the instruments and equipment required for IFR operations under § 91.33(d) and one electric landing light for night operations. Each required instrument and item of equipment must be in operable condition.

§ 91.189 Survival equipment for extended overwater operations.

(a) No person may operate an airplane in extended overwater operations unless it has on board the following survival equipment:

(1) A life preserver equipped with an approved survivor locator light, for each occupant of the airplane.

(2) Enough life rafts (each equipped with an approved survivor locator light) of a rated capacity and buoyancy to accommodate the occupants of the airplane.

(3) At least one pyrotechnic signaling device for each raft.

(4) One self-buoyant, water-resistant, portable emergency radio signaling device, that is capable of transmission on the appropriate emergency frequency or frequencies, and not dependent upon the airplane power supply.

(b) The required life rafts, life preservers, and signaling devices must be easily accessible in the event of a ditching without appreciable time for preparatory procedures. This equipment must be installed in conspicuously marked approved locations.

(c) A survival kit, appropriately equipped for the route to be flown, must be attached to each required life raft.

§ 91.191 Radio equipment for extended overwater operations.

(a) No person may operate an airplane in extended overwater operations unless it has at least the following operable radio communication and navigational equipment appropriate to the facilities to be used and able to transmit to, and receive from, at any place on the route, at least one ground facility:

(1) Two transmitters.

(2) Two microphones.

(3) Two headsets or one headset and one speaker.

(4) A marker beacon receiver.

(5) Two independent receivers for navigation.

(6) Two independent receivers for communications.

However, a receiver that can receive both communications and navigational signals may be used in place of a separate communications receiver and a separate navigational signal receiver.

(b) For the purposes of paragraphs (a) (5) and (6) of this section, a receiver is independent if the function of any part of it does not depend on the functioning of any part of another receiver.

§ 91.193 Emergency equipment.

(a) No person may operate an airplane unless it is equipped with the emergency equipment listed in this section:

(b) Each item of equipment—

(1) Must be inspected in accordance with § 91.217 to ensure its continued serviceability and immediate readiness for its intended purposes;

(2) Must be readily accessible to the crew;

(3) Must clearly indicate its method of operation; and

(4) When carried in a compartment or container, must have that compartment or container marked as to contents and date of last inspection.

(c) Hand fire extinguishers of an approved type must be provided for use in crew, passenger, and cargo compartments in accordance with the following:

(1) The type and quantity of extinguishing agent must be suitable for the kinds of fires likely to occur in the compartment where the extinguisher is intended to be used.

(2) At least one hand fire extinguisher must be provided and conveniently located on the flight deck for use by the flight crew.

(3) At least one hand fire extinguisher must be conveniently located in the passenger compartment of each airplane accommodating more than six but less

than 31 passengers, and at least two hand fire extinguishers must be conveniently located in each airplane accommodating more than 30 passengers.

(d) First-aid kits for treatment of injuries likely to occur in flight or in minor accidents must be provided.

(e) Each airplane must be equipped with a crash ax.

(f) Each passenger-carrying airplane must have a portable battery-powered megaphone or megaphones readily accessible to the crewmembers assigned to direct emergency evacuation, installed as follows:

(1) One megaphone on each airplane with a seating capacity of more than 60 and less than 100 passengers, at the most rearward location in the passenger cabin where it would be readily accessible to a normal flight attendant seat. However, the Administrator may grant a deviation from the requirements of this subparagraph if he finds that a different location would be more useful for evacuation of persons during an emergency.

(2) Two megaphones in the passenger cabin on each airplane with a seating capacity of more than 99 passengers, one installed at the forward end and the other at the most rearward location where it would be readily accessible to a normal flight attendant seat.

§ 91.195 Flight altitude rules.

(a) Notwithstanding § 91.79, and except as provided in paragraph (b) of this section, no person may operate an airplane under VFR at less than the following minimum altitudes:

(1) One thousand feet above the surface, or 1,000 feet from any mountain, hill, or other obstruction to flight for day operations.

(2) The altitudes prescribed in § 91.119 for night operations.

(b) This section does not apply—

(1) During takeoff or landing;

(2) When a different altitude is authorized by a waiver under § 91.63; or

(3) When a flight is conducted under the special VFR weather minimums of § 91.107 with an appropriate clearance from ATC.

§ 91.197 Smoking and safety belt signs.

(a) Except as provided in paragraph (b) of this section, no person may operate an airplane carrying passengers unless it is equipped with signs that are visible to passengers and cabin attendants to notify them when smoking is prohibited and when safety belts should be fastened. The signs must be so constructed that the crew can turn them on and off. They must be turned on for each takeoff and each landing and when otherwise considered to be necessary by the pilot in command.

(b) The pilot in command of an airplane that is not equipped as provided in paragraph (a) of this section shall insure that the passengers are orally notified each time that it is necessary to fasten their safety belts and when smoking is prohibited.

§ 91.199 Passenger briefing.

(a) Before each takeoff the pilot in command of an airplane carrying passengers shall ensure that all passengers have been orally briefed on:

(1) Smoking;

(2) Use of safety belts;

(3) Location and means for opening the passenger entry door and emergency exits;

(4) Location of survival equipment;

(5) If the flight involves extended overwater operation, ditching procedures and the use of required flotation equipment; and

(6) If the flight involves operations above 10,000 feet MSL, the normal and emergency use of oxygen.

(b) The oral briefing required by paragraph (a) of this section shall be given by the pilot in command or a member of the crew. It may be supplemented by printed cards for the use of each passenger, containing—

(1) A diagram of, and methods of operating, the emergency exits; and

(2) Other instructions necessary for use of emergency equipment.

Each card required by this paragraph must be carried in convenient locations on the airplane for use of each passenger. It must contain information that is pertinent only to the type and model airplane on which it is used.

§ 91.201 Carry-on-baggage.

No pilot in command of an airplane having a seating capacity of more than 19 passengers may permit a passenger to stow his baggage aboard that airplane except—

(a) In a suitable baggage or cargo storage compartment, or as provided in § 91.203; or

(b) Under a passenger seat in such a way that it will not slide forward under crash impacts severe enough to induce the ultimate inertia forces specified in § 25.561(b)(3) of this chapter, or the requirements of the regulations under which the airplane was type certificated.

§ 91.203 Carriage of cargo.

(a) No pilot in command may permit cargo to be carried in any airplane unless—

(1) It is carried in an approved cargo rack, bin, or compartment installed in the airplane;

(2) It is secured by means approved by the Administrator; or

(3) It is carried in accordance with each of the following:

(i) It is properly secured by a safety belt or other tiedown having enough strength to eliminate the possibility of shifting under all normally anticipated flight and ground conditions.

(ii) It is packaged or covered to avoid possible injury to passengers.

(iii) It does not impose any load on seats or on the floor structure that exceeds the load limitation for those components.

(iv) It is not located in a position that restricts the access to or use of any required emergency or regular exit, or the use of the aisle between the crew and the passenger compartment.

(v) It is not carried directly above seated passengers.

(b) When cargo is carried in cargo compartments that are designed to require the physical entry of a crewmember to extinguish any fire that may occur during flight, the cargo must be loaded so as to allow a crewmember to effectively reach all parts of the compartment with the contents of a hand fire extinguisher.

§ 91.205 Operating limitations: Takeoff limitations for transport category airplanes.

No pilot operating a reciprocating engine-powered transport category airplane may take off that airplane unless it is possible to stop the airplane safely on the runway, as shown by the accelerate stop distance data, at any time during takeoff until reaching critical-engine failure speed.

§ 91.207 VFR fuel requirements.

No pilot may begin a flight in an airplane under VFR unless, considering wind and forecast weather conditions, it has enough fuel to fly to the first point of intended landing and, assuming normal cruising fuel consumption to fly thereafter for at least 45 minutes.

§ 91.209 Operating in icing conditions.

(a) No pilot may take off an airplane that has—

(1) Frost, snow, or ice adhering to any propeller, windshield, or powerplant installation, or to an airspeed, altimeter, rate of climb, or flight attitude instrument system;

(2) Snow or ice adhering to the wings, or stabilizing or control surfaces; or

(3) Any frost adhering to the wings, or stabilizing or control surfaces, unless that frost has been polished to make it smooth.

(b) Except for an airplane that has ice protection provisions that meet the requirements in section 34 of Special Federal Aviation Regulation No. 23, or those for transport category airplane type certification, no pilot may fly—

(1) Under IFR into known or forecast light or moderate icing conditions; or

(2) Under VFR into known light or moderate icing conditions; unless the aircraft has functioning de-icing or anti-icing equipment protecting each propeller, windshield, wing, stabilizing or control surface, and each airspeed, altimeter, rate of climb, or flight attitude instrument system.

(c) Except for an airplane that has ice protection provisions that meet the requirements in section 34 of Special Federal Aviation Regulation No. 23, or those for transport category airplane type certification, no pilot may fly an airplane into known or forecast severe icing conditions.

(d) If current weather reports and briefing information relied upon by the

pilot in command indicate that the forecast icing conditions that would otherwise prohibit the flight will not be encountered during the flight because of changed weather conditions since the forecast, the restrictions in paragraphs (b) and (c) of this section based on forecast conditions do not apply.

§ 91.211 Flight engineer requirements.

(a) No person may operate the following airplanes without a flight crewmember holding a current flight engineer certificate:

(1) An airplane for which a type certificate was issued before January 2, 1964, having a maximum certificated takeoff weight of more than 80,000 pounds.

(2) An airplane type certificated after January 1, 1964, for which a flight engineer is required by the type certification requirements.

(b) No person may serve as a required flight engineer on an airplane unless, within the preceding 6 calendar months, he has had at least 50 hours of flight time as a flight engineer on that type airplane, or the Administrator has checked him on that type airplane and determined that he is familiar and competent with all essential current information and operating procedures.

§ 91.213 Second in command requirements.

No person may operate the following airplanes without a pilot who is designated as second in command of that airplane:

(a) A large airplane.

(b) A turbine-powered multiengine airplane in those operations for which 2 pilots are required under the type certification requirements.

§ 91.215 Flight attendant requirements.

(a) No person may operate an airplane unless at least the following number of flight attendants are on board the airplane:

(1) For airplanes having more than 19 but less than 51 passengers on board—one flight attendant.

(2) For airplanes having more than 50 but less than 101 passengers on board—two flight attendants.

(3) For airplanes having more than 100 passengers on board—two flight attendants plus one additional flight attendant for each unit (or part of a unit) of 50 passengers above 100.

(b) No person may serve as a flight attendant when required by paragraph (a) of this section unless that person is familiar with the necessary functions to be performed in an emergency or a situation requiring emergency evacuation and is capable of using the emergency equipment installed on that airplane for the performance of those functions.

§ 91.217 Inspection program.

(a) No person may operate an airplane governed by this subpart unless the replacement times for life limited parts specified in the aircraft data sheets and manufacturers information are complied with, and the airplane, including the airframe, engines, propellers, appliances, and emergency equipment are inspected in accordance with an inspection program selected under the provisions of this section.

(b) The registered owner or operator of each airplane governed by this subpart must select one of the following programs for the inspection of the make and model of that airplane:

(1) A continuous airworthiness inspection program that is a part of a continuous airworthiness maintenance program currently in use by a person holding an air carrier or commercial operator certificate under Part 121 of this subchapter.

(2) An approved aircraft inspection program currently in use by a person holding an ATCO certificate under Part 135 of this subchapter.

(3) An approved continuous inspection program currently in use by a person certificated as an Air Travel Club under Part 123.

(4) A current inspection program recommended by the manufacturer.

(5) Any other inspection program established by the registered owner or operator of that airplane and approved by the Administrator under paragraph (e) of this section.

(c) Notice of the inspection program selected shall be sent to the local FAA District Office having jurisdiction over the area in which the airplane is based. The notice must be in writing and include—

(1) Make, model, and serial number of the airplane;

(2) Registration number of the airplane;

(3) The inspection program selected under paragraph (b) of this section; and

(4) The name and address of the person responsible for scheduling the inspections required under the selected inspection program.

(d) The registered owner or operator may not change the inspection program for an airplane unless he has given notice thereof as provided in paragraph (c) of this section.

(e) Each registered owner or operator of an airplane desiring to establish an approved inspection program under paragraph (b)(5) of this section must submit the program for approval to the local FAA District Office having jurisdiction over the area in which the airplane is based. The program must include the following information:

(1) Instructions and procedures for the conduct of inspections for the particular make and model airplane, including necessary tests and checks. The instructions and procedures must set forth in detail the parts and areas of the airframe, engines, propellers, and appliances, including emergency equipment required to be inspected.

(2) A schedule for the performance of the inspections that must be performed under the program expressed in terms of the time in service, calendar time, number of system operations, or any combination of these.

§ 91.219 Availability of program.

Each owner or operator of an airplane shall make a copy of the inspection program selected under § 91.217 available to—

(a) The person responsible for the scheduling of the inspections;

(b) Any person performing inspections on the airplane; and

(c) Upon request, to the Administrator.

The following amendments to Parts 43, 91, and 135 of the Federal Aviation Regulations are also proposed to make those parts conform with the proposed subpart D.

1. Section 43.9(a) would be amended by adding a new subparagraph (5) to read as follows:

§ 43.9 Content, form and disposition of maintenance, rebuilding, and alteration records (except 100-hour, annual, and progressive inspections).

(a) *Maintenance records entries.* * * *

(5) If the work performed is an inspection required under § 91.217 of this chapter for a large or turbine-powered multiengine airplane, the entry must name the kind of inspection conducted (continuous airworthiness inspection program, approved inspection program, etc.) and include a statement that—

(i) The inspection was performed in accordance with the instructions and procedures for the kind of inspection program selected by the owner or operator of the airplane; and

(ii) A signed and dated list of the defects, if any, found by the inspection was given to the owner or operator of the airplane.

* * * * *

2. Section 43.13 would be amended by adding a new paragraph (d) to read as follows:

§ 43.13 Performance rules (general).

* * * * *

(d) Each person performing an inspection required by § 91.217 for a large or turbine-powered multiengine airplane shall do that work in accordance with the methods, techniques, and practices prescribed in subparagraphs (1) through (5) of this paragraph for the applicable inspection program.

(1) For a continuous airworthiness inspection program the standards prescribed in paragraph (c) of this section apply.

(2) For an approved aircraft inspection program the standards prescribed in paragraph (a) of this section apply.

(3) For a continuous inspection program the standards prescribed in § 43.15(a) of this part apply.

(4) For an inspection program recommended by a manufacturer the standards contained in the recommendations and instructions of the aircraft, engine, propeller, or appliance manufacturer apply.

(5) For an approved inspection program the standards prescribed in paragraph (a) of this section apply, except when the inspection program for the particular airplane includes other standards.

§ 91.1 [Amended]

2. Section 91.1(b)(3) would be amended by changing the words "Subparts A and C of this part" appearing in that section to "Subparts A, C, and D of this part."

§ 91.165 [Amended]

3. Section 91.165 would be amended by changing the words "§§ 91.169 and 91.170" appearing in that section to "Subpart D of this part or § 91.169, as appropriate, and § 91.170".

4. Section 91.169(c) would be amended by adding a new subparagraph (5) to read as follows:

§ 91.169 Inspections.

* * * * *

(c) * * *

(5) Any large airplane or turbine-powered multiengine airplane that is inspected in accordance with an inspection program authorized under Subpart D of this part.

§ 135.60 [Amended]

5. Paragraph (a) of § 135.60 would be amended by changing the words "§ 91.169 or § 91.171" appearing in that section to read "Part 91".

[FR Doc.71-14680 Filed 10-6-71;8:46 am]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 207, 208, 212, 214, 372]

[Docket No. 21666; EDR 173D; SPDR25A]

OVERSEAS MILITARY PERSONNEL CHARTERS

Supplemental Notice of Rule Making; Extension of Time

OCTOBER 4, 1971.

The Board, by circulation of notice of rule making EDR-173C/SPDR-25 date August 27, 1971, and published at 36 F.R. 17655, gave notice that it had under consideration proposed amendments to Parts 207, 208, 212, and 214 of its economic regulations (14 CFR Parts 207, 208, 212, and 214), and proposed adoption of a new Part 372 of its special regulations (14 CFR Part 372). These proposals would establish a new class of charter for military personnel and their dependents, enable air carriers and foreign air carriers to perform such charters, and relieve charter operators from certain provisions of the Federal Aviation Act in order to authorize them to act as indirect air carriers with respect to such charters. Interested persons were invited to participate by submission of twelve (12) copies of written data, views, or arguments pertaining thereto, to the Docket Section of the Board on or before October 18, 1971.

By letter dated September 20, 1971, the Department of Defense requests an extension of time for filing comments to December 17, 1971. The Department states that it has a significant interest in the rule making proceeding which directly affects a service having a broad usage among departmental personnel. It further avers that additional time is needed so that the Department's views may be carefully formulated and fully coordinated within the Department.

The undersigned finds that good cause has been shown for an extension of time for filing comments, but that an extension beyond 30 days is not warranted and would not be conducive to the proper dispatch of the Board's business. An extension of 30 days will provide a total of 75 days for the filing of comments, a period which should be ample for the Department. In addition, it is important that a final rule in this matter be issued with as much lead time as possible prior to the 1972 charter season.

Accordingly, pursuant to the authority delegated in § 385.20(d) of the Board's Organization Regulations, the undersigned hereby extends the time for submitting comments to November 17, 1971.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

[SEAL] ARTHUR H. SIMMS,
Associate General Counsel, Rules and Rates.

[FR Doc.71-14723 Filed 10-6-71;8:51 am]

FEDERAL RESERVE SYSTEM

[12 CFR Parts 207, 220, 221]

[Regs. G, T, U]

CREDIT TO CONTRIBUTE CAPITAL TO BROKERS AND DEALERS

Postponement of Proposed Effective Date

SEPTEMBER 30, 1971.

1. Pursuant to the authority contained in the Securities Exchange Act of 1934 (15 U.S.C. 78g), the Board of Governors, on July 16, 1971 (36 F.R. 13218), published revisions to its proposals to amend Parts 207, 220, and 221 (Regulations G, T, and U).

2. In view of the extent and number of comments received from interested members of the public, the Board hereby announces that it will postpone the originally proposed effective date of October 1, 1971, to December 1, 1971, in order to permit further consideration of the views, suggestions, and comments received.

3. In view of the postponement of the effective date to December 1, 1971, the proposed changes to Regulations G, T, and U will apply to credit extended by banks, broker/dealers, and persons subject to Regulation G after December 1, 1971, and to renewals after such date of credit extended by banks after April 16, 1971, except in the case of credit extended by banks directly to broker/dealers where the restrictions would apply to such credit extended after December 1, 1971, and to renewals after that date of such credit extended after July 9, 1971.

By order of the Board of Governors, September 28, 1971.

[SEAL] TYNAN SMITH,
Secretary.

[FR Doc.71-14668 Filed 10-6-71;8:49 am]

FEDERAL POWER COMMISSION

[18 CFR Part 260]

[Docket No. R-308]

TOTAL GAS SUPPLY OF NATURAL GAS PIPELINE COMPANIES

Proposed Revised Annual Report Form

SEPTEMBER 29, 1971.

Notice is hereby given pursuant to section 553 of title 5 of the United States Code and sections 10, 14, and 16 of the Natural Gas Act (52 Stat. 826, 15 U.S.C. 717i; 52 Stat. 828, 15 U.S.C. 717m; and 52 Stat. 830, 15 U.S.C. 717o) that the Commission proposes to amend paragraph (a) of § 260.7 of Part 260—Statements and Reports (Schedules); Subchapter G—Approved Forms, Natural Gas Act; Chapter I, Title 18 of the Code of Federal Regulations to prescribe a revised FPC Form No. 15, Annual Report of Total Gas Supply, for the reporting year 1971 and thereafter.

In the proceeding in Docket No. R-239 the Commission proposed to require the filing, as part of the then-proposed Form No. 15, of certain detailed reservoir reserve estimate, contractual, and deliverability data. These data were to be submitted on electric accounting punch cards, electric data processing magnetic tape, or paper tape. By Order No. 279, issued March 31, 1964 (31 FPC 750), the Commission promulgated § 260.7 of its Statements and Reports (Schedules), prescribing Form No. 15 which did not include the detailed reservoir reserve estimate, contractual, and deliverability data to be filed in automatic data processing (ADP) media. The then-prescribed report was designated as the First Phase and further consideration of the requirements for filing the additional detailed data was deferred as the Second Phase.

By notice issued in the instant proceeding on September 22, 1966 (31 F.R. 12729, September 29, 1966), the Commission proposed to require the filing of First Phase data in ADP media. By Order No. 337 issued February 16, 1967 (37 FPC 326), the Commission deferred requiring the submission of Form No. 15 in ADP media and revised § 260.7 by requiring the filing of a revised Form No. 15 with minor changes. The instant proceeding was continued by said order.

By notice issued in the instant proceeding on November 11, 1968 (33 F.R. 17195, November 20, 1968), the Commission proposed both substantial and minor revisions in Form No. 15. By Order No. 399 issued April 27, 1970 (43 FPC 563), the Commission amended § 260.7 by requiring the filing of revised Form